IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1976

No. 77-1881

MELVIN FREDERICK GLAZNER,
Petitioner,

vs.

THE STATE OF FLORIDA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI
TO THE COURT OF APPEALS
FOR THE SECOND DISTRICT
OF THE STATE OF FLORIDA

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IN THE SUPREME COURT OF THE UNITED STATES

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THE STATE OF FLORIDA,
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The petitioner, Melvin Frederick Glazner, prays that a Writ of Certiorari issue to review the judgment of the Court of Appeals of the State of Florida rendered in these proceedings on the 17th day of December, 1976.

OPINIONS BELOW

No opinions have been delivered by the lower courts below. The judgment of the Court of Appeals affirming the judgment of the trial court without opinion is reported at 341 So. 2d 1091 and is appended hereto (A-12). The judgment of the Florida Supreme Court denying Certiorari without opinion, as yet unreported, is appended hereto (A-14).

JURISDICTION

The order or judgment of the Court of Appeals of the State of Florida was entered on December 17, 1976 (A-12), and a timely petition for rehearing was denied on January 17, 1977 (A-13). The Florida Supreme Court denied certiorari, without opinion, on May 26, 1977 (A-14). Jurisdiction of this court is invoked under 28 U.S.C.A. 1257 (3).

QUESTIONS PRESENTED

Police officers had information regarding the presence of approximately 100 pounds of marijuana in petitioner's residence about two hours before they conducted a warrantless search of the house. During the period between the receipt of the information and the actual entry, a surveillance involving six police officers was set up around the house. The driver of a vehicle seen leaving the residence was detained by the police for questioning and informed them that the marijuana was about

to be removed from the house. The questions presented here relate to the propriety of the warrantless search of petitioner's residence under the circumstances of the case. Those questions are:

1. Whether the risk that the defendant may have been warned by the unarrested third party who was aware of the presence of the police, and may have destroyed the evidence prior to the time within which the police could have obtained a warrant, constitutes an "exigent circumstance" sufficient to obviate the Fourth Amendment search warrant requirement.

2. Whether information that a large quantity of marijuana is about to be removed from a residence, under police surveillance, constitutes an "exigent circumstance" sufficient to obviate search warrant requirements of the Fourth Amendment.

CONSTITUTIONAL PROVISION INVOLVED

U. S. CONST. AMEND. IV reads in its entirety as follows;

> "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly

> describing the place to be searched, and the persons or things to be seized."

STATEMENT OF THE CASE

On January 8, 1976 petitioner, Melvin Frederick Glazner, was charged by information with possession of marijuana (R-1-2)[1] and possession of cocaine (R-3). Following the entry of a not guilty plea (R-5,6) petitioner moved to suppress the contraband forming the basis of the respective charges (R-10). The basis of the motion is that the warrantless search of the residence owned by petitioner, Glazner, was not conducted pursuant to any recognized exceptions to the search warrant requirement and was therefore an unlawful search in violation of the Fourth Amendment to the United States Constitution (R-10).

On December 31, 1975 at 12:00 noon Detective Reynolds of the Pinellas Park, Florida Police Department received information from a confidential informant that a large quantity of marijuana was located in a house on the west side of town (R-91). The informant, who described the house (R-93), said the marijuana

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[1]References are to the original record-on-appeal whioh will be certified to this court pursuant to Rule 21 (1), Rules of the United States Supreme Court.

was to be moved out of the house early that afternoon (R-92-92). After he received the information from the confidential informant, Detective Reynolds called the state attorney's office in reference to obtaining a search warrant to search the premises (R-108). The state attorney's office was apparently unable to assist the officer, and no further effort was made to obtain a warrant (R-109). Detective Reynolds then proceeded to the house described by the informant without having any trouble locating it (R-109). The address of the house was later determined to be 5360 - 83rd Avenue North, Pinellas Park, Florida (R-97). The officer arrived at 12:15 p.m., drove by the house, and returned to the police station (R-95).

The confidential informant called the police department again at 1:15 p.m. to inform the officers that the marijuana was to be moved out at 1:30 p.m. (R-96). Detective Reynolds then proceeded back to the house (R-97). At 1:30 p.m. a van pulled into the yard (R-98), and after remaining in the yard for a few minutes, it pulled away (R-99). Detective Reynolds followed the van in an unmarked car (R-116) for a short distance, but lost contact with it (R-99). Although the driver of the van was going fast, he was not violating any traffic law (R-116), nor was he driving in a reckless or eractic manner (R-116). After losing contact with the van, Detective Reynolds went back to the area of the house to join other officers who had taken up surveillance there. In a few moments the van re-appeared and the driver entered the house (R-99). Approximately five to ten minutes had elapsed during the period in

which Detective Reynolds lost visual contact with the van (R-99).

While Detective Reynolds was following the van, another vehicle described as a 1965 Chevrolet Nova left the house. Officer McReynolds also of the Pinellas Park Police Department took up surveillance of the vehicle. After following the Chevrolet south on 49th Street for a short distance, Officer McReynolds stopped the vehicle (R-128). He asked the driver, later identified as Susan Spragle, whether the marijuana was still in the house. The officer stated that Spragle was surprised and flustered by his question and admitted that there were 50 to 100 pounds of marijuana in the house (R-128). She stated the occupants of the house were about to move the marijuana out (R-129). McReynolds radioed this information to Reynolds (R-129), who was at that point back at the house (R-101). Officer Reynolds then went to the door of the house and knocked (R-101). Petitioner, Glazner, came to the door and stepped outside. When the door was opened, Detective Reynolds smelled the odor of marijuana (R-102). About this time Officer McReynolds arrived and told petitioner, Glazner, to open the door (R-102). The officers then proceeded into the house where they found petitioner, Glazner, and others and where they ultimately found the contraband evidence forming the basis of these charges. The entry to the house by the officers occurred at 1:59 p.m. (R-159).

Detective Reynolds testified at the hearing on the motion to suppress that in his experience it took six to eight hours to obtain a search warrant in Pinellas County (R-94). He did not, however, make any effort other than his initial call to the state attorney's office to obtain a search warrant (R-113). The officers made the determination that there would not be enough time to secure a search warrant to search the residence (R-111-112). They proceeded inside the house without a warrant because they feared the removal or destruction of the evidence (R-111-113).

Prior to the seizure of the evidence, there were about six officers participating in the surveillance of the residence (R-120). There is no evidence in the record that the officers were having difficulty in the surveillance of the residence or that the residence would have been difficult to secure. The record does not disclose the existence of any sudden movement by the petitioner at any time. There is no evidence that these police officers were noticed by the occupants of the house (R-133-134).

The officers feared the evidence would be destroyed because they presumed the driver of the van knew he was being followed by a policeman, and that during the period in which Detective Reynolds lost contact with the van, the driver could have called the occupants of the house, who would then have destroyed the evidence (R-133).

The trial court found the warrantless search

of the residence reasonable (R-150, A-5) because the marijuana was about to be removed from the premises and because of the possibility the evidence may have been destroyed if the occupants of the house were aware of the surveillance (R-149, A 4).

Shortly after the hearing on the motion to suppress held on April 5, 1976 petitioner, Glazner, entered a plea of nolo contendere preserving the right to appeal the trial judge's ruling (R-63-81). He was adjudicated guilty and sentenced to concurrent terms of three years on the marijuana charge (R-23, A-8-9) and three years on the cocaine charge (R-25, A-10-11).

The appeal filed from the judgment was affirmed by the Court of Appeals for the Second District of Florida on December 17, 1976 (A-12), rehearing denied January 17, 1977 (A-13). The Florida Supreme Court denied certiorari, Adkins J. dissenting, on May 26, 1977 (A-14).

Petitioner's argument that he was deprived of his right under the Fourth Amendment to the United States Constitution was the only argument ever raised in this case and was first made in the trial court. The Fourth Amendment argument was made in each succeeding court which has considered this case through and including the Florida Supreme Court.

REASONS FOR GRANTING THE WRIT

I

THE COURT BELOW HAS DECIDED A FEDERAL QUESTION OF SUBSTANCE IN A WAY PROBABLY NOT IN ACCORD WITH APPLICABLE DECISIONS OF THIS COURT.

This court has not as yet set forth specific standards to be used in determining the validity of a warrantless search of a residence upon exigent circumstances. The principles which can be drawn from the court's decisions on the subject, however, clearly demonstrate the constitutional error of the Florida courts below.

Johnson v. United States, 333 U.S. 10 (1948) is one of the early decisions recognizing that there are some exceptional circumstances which would justify a warrantless search of a dwelling. There the court held that the unmistakable odor of burning opium emanating from a room believed to be occupied by persons involved in illegal drug activities did not justify a search of the room without a warrant. The court predicated its ruling upon the fact that the suspects were not fleeing or likely to take flight and the fact that the contraband was not threatened with destruction or removal. The subjective fear that the evidence in the instant case might be destroyed is even weaker than the one rejected by the court in Johnson. Here the officers knew there were approximately one hundred pounds of

marijuana in the petitioner's house. Certainly this could not be destroyed as quickly as the opium the officers believed was in the hotel room in Johnson. There are, no doubt, some exceptional circumstances which present such an immediate danger of loss or destruction of the evidence that a warrantless intrusion is justified, C. f. Schmerber v. California, 384 U.S. 757 (1966). This is not such a case, however.

The fact that the evidence was about to be removed from petitioner's house also fails as a reason to support a finding of exigent circumstances. The crucial inquiry is not the reasonableness of the fear of removal, but rather the reasonableness of the danger that removal could not be prevented by the police. This court was confronted with a similar issue in United States v. Jeffers, 342 U.S. 48 (1951) and held that it was improper to conduct a warrantless entry when the removal of the evidence could have been prevented by simply guarding the door. In the instant case there were six police officers surrounding the petitioner's residence during the entire two hour period it was under surveillance. It is unlikely indeed that petitioner could have moved one hundred pounds of marijuana out of his house without being stopped by the police.

The fear of destruction or removal of the evidence in this case is purely speculative. There is no indication that the occupants of petitioner's house were aware of the presence

of the police. Petitioner submits that the Florida court committed a serious constitutional error in permitting the warrantless search of his house upon the mere "possibility" that the occupants of the house may have been aware of the presence of the police and would have had time to destroy the evidence. The leading decisions in the lower federal courts have uniformly required objective proof that the occupants of the dwelling were aware of an eminent search or arrest by police officers.[2]

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[2]For example see United States v. Rubin, 474 F.2d 262 (3rd Cir. 1973) where a co-defendant upon being arrested shouted to his friends "call my brother", United States v. Frierson, 299 F.2d 763 (7th Cir. 1962) where the words "get rid of the stuff, get rid of the spoon", were plainly audible through the door, Doyle v. United States, 456 F.2d 1246 (5th Cir. 1972) where the police heard the defendant say "its the heat, its the heat" and then heard the sound of a flushing commode, Gaines v. Craven, 448 F.2d 1236 (9th Cir. 1971) where the defendant was seen throwing a package back through his open apartment door upon observing the officer, United States v. Montiell, 526 F. 2d 1008 (2nd Cir. 1975) where an undercover officer who was returning to close a narcotics deal heard the sound of a flushing toilet after knocking on the door, and Kleinbart v. United States, 439 F.2d 511 (D.C. Cir. 1970) where the officers heard scuffling sounds and saw a small bottle thrown out of a window.

This court recently recognized in United States v. Santana, ____ U.S. ____, 49 L.Ed.2d 300, 96 S.Ct. 2406 (1976) that knowledge on the part of the accused of the presence of police officers is an important factor in determining the reasonableness of the fear that evidence will be destroyed.

The fear of destruction is not supported by the fact that the driver of the vehicle seen leaving the house might have telephoned petitioner to warn him after she was stopped by the police. Mr. Justice Stevens, then a circuit judge in United States v. Roselli, 506 F.2d 627 (9th Cir. 1974), summarily rejected the same argument upon the reasoning that such a precedent could develop into an easy bypass of the warrant requirement.

In Vale v. Louisiana, 399 U.S. 30 (1970) this court held that an arrest on the street cannot provide its own exigent circumstance so as to justify a warrantless search of the arrestee's house. Police officers in Vale believed that some evidence had already been destroyed and that friends who may have witnessed the arrest on the street might well destroy other evidence, Black J. dissenting. The court held that no exigent circumstances existed, however, in the absence of evidence indicating that contraband was in the process of destruction or was about to be destroyed.

In the instant case, the Florida courts

dispensed with the search warrant requirement and allowed the warrantless search of the residence. The courts below decided that the "possibility" that evidence might be destroyed or that its removal could not be prevented constituted sufficient exceptional circumstances to obviate the warrant requirement. Petitioner submits that the decision of the Florida court is not in harmony with the principles set forth by the applicable decisions of this court.

II

THE FEDERAL CONSTITUTIONAL QUESTIONS ARE OF IMPORTANCE IN THE ADMINISTRATION OF JUSTICE.

The court has often dealt with the exigent circumstances exception in cases involving automobile searches. There are, however, relatively few decisions of the court addressing the issue of what constitutes exigent circumstances sufficient to justify the warrantless search of a house. The decisions of the court applicable to warrantless residence searches made upon exceptional circumstances, discussed in Part I, pp. 9-12, leave many unresolved questions.

Commentators upon the subject have uniformly considered the area ripe for a definitive

opinion by the court.[3] Moreover, the variety of views expressed by the state courts and lower federal courts suggest the need for clarification.

Some courts have found the possibility of destruction or removal of evidence sufficient to justify the warrantless search of a residence upon exigent circumstances, State v. Patterson, 192 Neb. 308, 220 N.W.2d 235 (1974), State v. Wiley, 522 S.W.2d 281 (Mo. 1975), while

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[3]For example, in Police Practices and the Threatened Destruction of Evidence, 84 Harv. L. Rev. 1465 (1971) the author noted:

> ". . .the court has provided little guidance for deciding the issue [what exigent circumstances are sufficient to justify the warrantless search of a residence]. It has not articulated what criteria an exception to the search warrant requirement must satisfy. . ." at 1467,

and in The Emergency Doctrine Exception to the Warrant Requirement Under the Fourth Amendment, 22 Buf. L. Rev. 419 (1973) it was observed that:

> ". . .although the emergency exception has never been definitively explained by the Supreme Court, it has been consistently recognized and applied by the lower courts to a myriad of factual situations. . ." at 419, 420;

and according to The Emergency Exception to the Fourth Amendment, 9 U. Rich. L. Rev. 249

others have held the mere possibility of destruction or removal insufficient, State v. Ahern, 227 N.W.2d 164 (Iowa 1975). It has been said that exigent circumstances sufficient to justify the warrantless entry to a home exist only when it "reasonably appears" the evidence will be destroyed or removed, People v. Clark, 547 P.2d 267 (Colo. 1975). Several courts, however, have made a more literal interpretation of this court's decisions on the subject and have required that the evidence be in the actual process of destruction, United States v. Brewer, 343 F.Supp. 468 (D. Hawaii 1972), Ludlow v. State, 314 N.E.2d 750 (Ind. 1974).

(1973):

> ". . .although an emergency or exigent circumstance is frequently cited as one justification for a search without a warrant, the contours of the exception have not developed and. . .[the Supreme Court]. . . has never pinned it down to a workable and effective meaning. . ." at 249,

and most recently in Residential Searches to Prevent the Destruction of Evidence: An Emerging Exception to the Warrant Requirement, 47 U. Col. L. Rev. 517 (1976) the author said:

> ". . .in conclusion it is readily apparent that the contours of the exceptions to the warrant requirement which permits search and seizure of evidence that is threatened with destruction have not stabilized. The Supreme Court has thus far declined to carefully articulate the boundaries of the exception. . ." at 531.

The very nature of the exigent circumstances exception requires a determination on a case by case basis. Uniform standards are necessary, however, to assure that the law is applied evenhandedly to each case. The purpose of applying the Fourth Amendment to the states through the Due Process Clause of the Fourteenth Amendment would be defeated if each state could interprete the Amendment as liberally or as strictly as it saw fit. It would be unfortunate if one defendant went to jail in one jurisdiction while another whose house was searched under the same circumstances went free.

The case before the court presents substantial federal questions which should be resolved. Petitioner respectfully suggests that an opinion of this court is necessary to further define the exigent circumstances exception in warrantless residence search cases.

CONCLUSION

For the foregoing reasons, this Petition for Writ of Certiorari should be granted.

Respectfully submitted,

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Ruiz, Padovano & Schrader
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St. Petersburg, FL 33713
Attorney for Petitioner

APPENDIX

CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA
APRIL 5, 1976

TRANSCRIPT OF TRIAL COURT'S RULING ON
MOTION TO SUPPRESS

[147]

THE COURT: Thank you, Mr. Jacobs. Anything further, Gentlemen?

This cause having come on to be heard upon motion of the Defendant Melvin Glazner, James H. Hybl, Joan McClure, and Stephen Sklar to suppress the evidence obtained in this cause on the grounds it was obtained in violation of constitutional rights against unreasonable search and seizure;

The Court finds that at the time of the search the officers involved were armed with information that there was present on the premises 50 to 100 pounds of marijuana, that they were advised that

this marijuana was being removed prior to 1:30, or about 1:30, first notice of this being present was twelve noon;

That the officers put into operation a surveillance on premises. They inquired of the appropriate agency, the State Attorney's [148] Office, to inquire concerning the need and feasibility of obtaining a search warrant. They determined they could not obtain a warrant prior to the 1:30 deadline; that their information concerning the removal of the contraband from the premises was confirmed by the information obtained by the witness from Mrs. Spragle; that the search was made without a warrant bringing into focus the issue of whether or not the officers should obtain a warrant prior to search.

The Court as to citation of cases in the First District offered by -- in reference to the

Sheptard case, the Court agrees with Mr. Ruiz it does have some strange language. The prohibition in the constitution is not against search and seizure; it is against unreasonable search and seizure.

What is unreasonable in any situation has plagued the courts since the constitution was drafted in the particulars of getting the grounds of prohibition up to the present. In summary, it may be said that the Court looks askance and scrutinizes closely the conduct of officers who start without a warrant [149] but conceive the circumstances present in that case determines what is reasonable.

The Court finds in the present case the officers were confronted with this situation, they had reasonable grounds to believe that a felony was being committed on the premises, that is,

possession of a substance controlled by the Florida Drug Abuse Act; that this was going to be removed and, if not moved, the possibility of its destruction was possible if the possessor obtained information the officers were present. The officers had one or two options, either to fall back and go through the mechanics of obtaining a warrant, a search warrant, or to do as they did.

The Court has considered the Sheptard case cited by Counsel for the defendant but, considering the time table the officers were confronted with in this case, it is doubtful that a bureaucratic efficiency which would satisfy Mr. Rawls would have been available in this case.

The Court finds the officers, considering the totality of the circumstances and the information available to them, acted reasonably

[150] and that the search of the premises was reasonable, and the Motion to Suppress is denied.

All right, Gentlemen, we will get a jury in as soon as we can get them in. We will be at ease for -- well, don't get out a pocket.

CIRCUIT COURT

FOR PINELLAS COUNTY, FLORIDA

CASE NO. 76-3 CT. CR.

STATE OF FLORIDA	)	
	)	VFCDAP&CA
vs.	)	(Possession
	)	of Marijuana)
MELVIN FREDERICK GLAZNER	)	
JAMES HARRIS HYBL	)	
JOAN YVONNE MC CLURE	)	
STEPHEN SKLAR	)	

ORDER

The foregoing cause coming on this day to be heard upon Defendant's Motion to Suppress and the same having been argued by counsel for the respective parties and duly considered by the Court; thereupon

IT IS CONSIDERED AND ORDERED that said motion be and the same is hereby DENIED.

Dated this 5th day of April, 1976, in Clearwater, Florida.

/s/ B. J. Driver
Circuit Judge

CIRCUIT COURT

FOR PINELLAS COUNTY, FLORIDA

CASE NO. 76-4 CT. CR.

STATE OF FLORIDA	)	
	)	VFCDAP&CA
vs.	)	(Possession of
	)	Cocaine)
MELVIN FREDERICK GLAZNER	)	

ORDER

The foregoing cause coming on this day to be heard upon Defendant's Motion to Suppress and the same having been argued by counsel for the respective parties and duly considered by the Court; thereupon

IT IS CONSIDERED AND ORDERED that said motion be and the same is hereby DENIED.

Dated this 5th day of April, 1976, in Clearwater, Florida.

/s/ B. J. Driver
Circuit Judge

IN THE CIRCUIT COURT
FOR PINELLAS COUNTY, FLORIDA

CASE NO. 76-3 CT. CR.

STATE OF FLORIDA	) Violation of Florida
	) Comprehensive Drug
vs.	) Abuse Prevention &
	) Control Act
MELVIN FREDERICK	) (Possession of
GLAZNER	) Marijuana)

JUDGMENT AND SENTENCE

The defendant, being present, and with counsel, Robert Douglas upon being caused to stand before the bar in the custody of the Sheriff, the Court pronounced the following Judgment, to-wit:

You, Melvin Frederick Glazner, having (intelligently, understandingly, and advisedly entered a plea of nolo contendere to the crime) of Violation of Florida Comprehensive Drug Abuse Prevention & Control Act (possession of marijuana) as charged in the Information filed herein; and having now identified yourself to the Court as the defendant named herein; and saying nothing in bar or preclusion why the judgment and sentence of the law should not now be pronounced against you, the Court hereby adjudges you to be guilty and the following sentence is pronounced, to-wit:

IT IS FURTHER CONSIDERED, ORDERED

AND ADJUDGED that you be imprisoned by confinement and committed to the custody of the Director of the Department of Offender Rehabilitation for a term of THREE YEARS, less the time spent in the County Jail of Pinellas County, Florida, to-wit: three days.

The defendant is advised of his right to appeal and of his right to have counsel for appeal purposes.

The defendant is remanded to the custody of the Sheriff.

DONE AND ORDERED this 24th day of May, 1976 in open court, in Clearwater, Florida.

/s/ B. J. Driver
Judge of the Circuit Court

IN THE CIRCUIT COURT
FOR PINELLAS COUNTY, FLORIDA

CASE NO. 76-4 CT. CR.

STATE OF FLORIDA	) Violation of Florida
	) Comprehensive Drug
vs.	) Abuse Prevention &
	) Control Act
MELVIN FREDERICK	) (Possession of
GLAZNER	) Cocaine)

JUDGMENT AND SENTENCE

The defendant, being present, and with counsel, Robert Douglas upon being caused to stand before the bar in the custody of the Sheriff, the Court pronounced the following Judgment, to-wit:

You, Melvin Frederick Glazner, have (intelligently, understandingly, and advisedly entered a plea of nolo contendere to the crime) of Violation of Florida Comprehensive Drug Abuse Prevention & Control Act (possession of cocaine) as charged in the Information filed herein; and having now identified yourself to the Court as the defendant named herein; and saying nothing in bar or preclusion why the judgment and sentence of the law should not now be pronounced against you, the Court hereby adjudges you to be guilty and the following sentence is pronounced, to-wit:

IT IS FURTHER CONSIDERED, ORDERED

AND ADJUDGED that you be imprisoned by confinement and committed to the custody of the Director of the Department of Offender Rehabilitation for a term of THREE YEARS, less the time spent in the County Jail of Pinellas County, Florida, to-wit: three days.

The aforementioned sentence shall run concurrently with Case No. 76-3 Ct. Cr.

The defendant is advised of his right to appeal and of his right to have counsel for appeal purposes.

The defendant is remanded to the custody of the Sheriff.

DONE AND ORDERED this 24th day of May, 1976 in open court, in Clearwater, Florida.

/s/ B. J. Driver
Judge of the Circuit Court

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA, SECOND DISTRICT

JULY TERM, A.D. 1976

MELVIN FREDERICK GLAZNER; JAMES HARRIS HYBL; JOAN YVONNE McCLURE; and STEPHEN SKLAR,	)	
Appellants,	)	Case Nos. 76-843 76-844 76-845 76-846 76-928
v.	)	
STATE OF FLORIDA,	)	
Appellee.	)	

Opinion filed December 17, 1976.

Appeals from the Circuit Court for Pinellas County; B. J. Driver, Judge.

Philip J. Padovano of Ruiz, Padovano & Schrader, St. Petersburg, for Appellants

Robert L. Shevin, Attorney General, Tallahassee, and William I. Munsey, Jr., Assistant Attorney General, Tampa, for Appellee.

PER CURIAM

Affirmed.

McNULTY, C.J., and GRIMES and SCHEB, JJ. CONCUR.

IN THE DISTRICT COURT OF APPEAL
OF THE STATE OF FLORIDA IN AND
FOR THE SECOND DISTRICT

MONDAY, JANUARY 17, 1977

MELVIN FREDERICK GLAZNER; JAMES HARRIS HYBL; JOAN YVONNE McCLURE; and STEPHEN SKLAR,	)	76-843
	)	76-844
Appellants,	)	Case Nos. 76-845
	)	76-846
v.	)	76-928
STATE OF FLORIDA,	)	
Appellee.	)	

Counsel for appellants having filed in this cause a Petition for Rehearing or Clarification and the same having been considered by the Court, it is

ORDERED that said Petition be and the same is hereby denied.

/s/ William A. Haddad
Clerk, District Court
of Appeal, Second
District

SUPREME COURT OF FLORIDA

THURSDAY, May 26, 1977

MELVIN FREDERICK GLAZNER, et al.,	)	CASE NO. 50,992
	)	
	)	DISTRICT COURT OF
Petitioners,	)	APPEAL, SECOND
	)	DISTRICT
vs.	)	76-843
	)	76-844
STATE OF FLORIDA,	)	76-845
	)	76-846
Respondent.	)	76-928

This cause having heretofore been submitted to the Court on Petition for Writ of Certiorari, jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Florida Appellate Rule 4.5 c (6), and it appearing to the Court that it is without jurisdiction, it is ordered that the Petition for Writ of Certiorari be and the same is hereby denied.

OVERTON, C.J., BOYD, ENGLAND and SUNDBERG, JJ., concur
ADKINS, J., dissents

A True Copy

TEST:

/s/ Sid J. White
Clerk Supreme Court